

## **302 KAR 1:020. Burley tobacco.**

RELATES TO: KRS 247.710-247.785

STATUTORY AUTHORITY: KRS 247.555, 247.710-247.785

NECESSITY, FUNCTION, AND CONFORMITY: KRS 247.755 authorizes the commissioner to establish and determine the rules and administrative regulations to conduct a referendum among producers of burley tobacco for the purpose of promoting and stimulating by research, market development and education, the increased production, use and sale, domestic and foreign, of burley tobacco and burley tobacco products. House Bill 441 of the 1990 Regular Session amended KRS 247.570 to permit burley tobacco producers to increase the maximum producer assessment.

Section 1. Definitions. As used in these rules and administrative regulations, unless the context otherwise requires:

- (1) "Commissioner" means the Commissioner of Agriculture;
- (2) "Board" means the State Board of Agriculture;
- (3) "Producer" means every person who produces burley tobacco and thereafter causes the same to be marketed;
- (4) "New producer" means a producer who was not engaged in the business of producing burley tobacco at the time a referendum was conducted in accordance with the provisions in these rules and administrative regulations;
- (5) "Person" means any individual, corporation, partnership, association, cooperative, or other business entity;
- (6) "Referendum agent" means an employee of the State Department of Agriculture under the direct control of the Commissioner of Agriculture;
- (7) "County referendum agent" an appointed person by the Commissioner of Agriculture, in a county where the burley tobacco referendum is held, as his agent for the conduct of said referendum;
- (8) "Council for Burley Tobacco, Inc." means an existing association, representative of the burley tobacco producers of Kentucky;
- (9) "Marketing quota" means each burley tobacco quota for which a marketing card is issued by the county agricultural stabilization conservation service office;
- (10) "Association" means any commission, council, board, or other body.

Section 2. Counties in Which Referendum Will be Conducted. The burley tobacco referendum will be conducted in all of the 120 counties in Kentucky.

Section 3. Who May Vote. (1) Each person engaged in the production of burley tobacco on a commercial basis, including the owners of farms on which burley tobacco is produced, tenants and sharecroppers sharing in the proceeds of the sale of burley tobacco shall be entitled to cast one (1) vote in the referendum, provided the producer is eighteen (18) years of age or older.

(2) Without limiting subsection (1) of this section, each person whose name regularly appears on checks issued in payment for the sale of burley tobacco is eligible to cast one (1) vote in the referendum regardless of the ownership of the farm upon which burley tobacco was produced. No person who certifies to the county referendum agent that he is a producer of burley tobacco shall be refused a ballot but such person shall be required to furnish the county referendum agent with information specific enough for the commissioner to verify the person's voting eligibility before such ballot is counted in the referendum.

Section 4. Voting Place. The commissioner shall establish a voting place in each county within

the state where producers of burley tobacco reside. Such voting place will be in the county extension service office in each county where the referendum is conducted. The voting place must provide an area where each voter can mark his ballot in privacy. Only one (1) voter shall be permitted in the voting area at any one time. One (1) or more county referendum agents shall be permitted in each voting place for the purpose of conducting the referendum. The county referendum agent shall be in charge of and be responsible for the voting area. Campaigning for or against said referendum will not be permitted in the county extension service office during voting hours.

Section 5. Hours for Voting. The voting places will be open from 9 a.m. to 3 p.m. local time and eligible voters will be permitted to vote only during such period of time or by absentee ballot as set forth in Section 6 of this administrative regulation. Voters will be permitted to vote only in the county of their residence or in the case of a corporate producer in the county where its principal place of business is located.

Section 6. Absentee Voting. Voting by absentee ballot will be permissible; provided, the request for an absentee ballot is made in writing to the commissioner at least ten (10) days in advance of the referendum voting date. The absentee ballot must be signed and returned to the commissioner on or before the referendum voting date, before the ballot is counted in the referendum.

Section 7. Referendum Voting Date. The burley tobacco referendum voting date shall be set by the commissioner after certification of the referendum. The date determined for the referendum, hours and polling places, effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which the assessment shall be collected and the general purposes to which the assessment shall be applied will be published by the commissioner through the medium of the public press in the Commonwealth of Kentucky at least thirty (30) days before the holding of the referendum. Notice of the referendum shall be published in accordance with the provisions of KRS Chapter 424 at least once, provided that the publication occurs not less than seven (7) nor more than twenty-one (21) days from the date of the referendum, and direct written notice thereof shall likewise be given to each county cooperative extension agent in any county covered by such referendum.

Section 8. Supervision of Referendum and Duties of the County Referendum Agent. The commissioner shall provide the county referendum agent with a copy of these rules and administrative regulations. Each county referendum agent shall have in his possession and under his control a ballot box and the approved ballot forms, indelible marking pens, and other supplies sufficient to operate each voting place as established in Section 4 of this administrative regulation. Each prospective voter must identify himself to the county referendum agent; and the voter will be required to sign a registration book giving his name, complete mailing address, and telephone number. The registration book shall be maintained by the county referendum agent. Upon signing the registration book, each prospective voter will receive an approved ballot form from the county referendum agent. The official ballot, after it has been completed by each eligible voter, shall be placed in the ballot box by said voter.

Section 9. Approved Ballot Forms. The commissioner shall furnish each county referendum agent in advance with official ballot forms. The official ballot forms shall state the question to be presented to the voters. The question presented shall show that the burley tobacco producer is voting on whether or not to adopt and amend the burley tobacco producer assessment to provide that a producer shall have one-tenth (1/10) of a cent per pound deducted on their burley tobacco marketing quota, with a minimum of fifty (50) cents in any marketing year. The funds collected by the ware-

house owners, tobacco dealers, and tobacco warehouse will be sent to the Council for Burley Tobacco to be used as provided in KRS 247.755. The effective date of the assessment, if adopted, will be November 1, 1990.

Section 10. Custody of Ballot Box and Referendum Material. Each county referendum agent shall provide a ballot box large enough to enclose all ballots cast in the referendum and to protect the ballots to insure that the information on the ballots is held in confidence. The county referendum agent shall mail all marked ballots and the registration book the day following the voting in the burley tobacco referendum to the Department of Agriculture in a properly secured manila envelope or folder.

Section 11. Confidential Information. All ballots cast, the identity of any person who voted, or the manner in which any person voted, and all information furnished to, compiled by, or in the possession of the commissioner, the referendum agent, and the county referendum agent shall be regarded as confidential. The commissioner shall retain the records, the ballots, the result of the referendum, and all other information furnished to or compiled by the commissioner in regard to the referendum for a period of twelve (12) months.

Section 12. Counting of Votes. Within five (5) days after the referendum, the commissioner shall designate an area within the department's offices to be used for counting the votes cast in the referendum. The vote count shall be conducted by employees of the department, but the Council for Burley Tobacco, Inc. and any organization actively engaged in the production of burley tobacco in Kentucky may each have one (1) representative present during the counting of the votes. Such organization must establish, to the satisfaction of the commissioner, that its desire to observe the counting of the ballots is for a legitimate purpose.

Section 13. Announcement of the Referendum Results. Announcement of the results of the referendum will be made only by the commissioner. The referendum agent or others who assist in the referendum shall not disclose any information in regard to the referendum. The commissioner will announce the results within ten (10) days after the referendum.

Section 14. Referendum Costs. All costs and expenses incurred by the commissioner in connection with the referendum shall be borne by the association conducting the referendum. The commissioner shall notify the association of all documented costs and expenses incurred in conducting the referendum including mailing and transportation costs, within ninety (90) days of the date the results of the referendum are announced by the commissioner.

Section 15. Affirmative Vote. An assessment approved by an affirmative vote as defined by KRS 247.765 shall be collected in the manner determined and announced by the association conducting the referendum. (3 Ky.R. 182; eff. 9-1-76; Am. 16 Ky.R. 2703; eff. 7-11-90.)